



DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

Docket No. 150108021-5021-01

RIN 0691-AA84

International Services Surveys: BE-180, Benchmark Survey of Financial Services

Transactions Between U.S. Financial Services Providers and Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Bureau of Economic Analysis (BEA), Department of Commerce, to reinstate reporting requirements for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. Benchmark surveys are conducted every five years; the prior survey covered 2009. For the 2014 benchmark survey, BEA proposes one change in the data items collected. This mandatory survey would be conducted under the authority of the International Investment and Trade in Services Survey Act (the Act). Unlike most other BEA surveys conducted pursuant to the Act, a response would be required from persons subject to the reporting requirements of the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, whether or not they are contacted by BEA, to ensure complete coverage of financial services transactions between U.S. financial services providers and foreign persons.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on

or before 5:00 p.m., [insert date 60 days after publication of notice of proposed rulemaking].

ADDRESSES: You may submit comments, identified by RIN 0691-AA84, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. For Keyword or ID, enter “EAB-2015-0001.”
- *E-mail:* christopher.stein@bea.gov.
- *Fax:* Christopher Stein, Services Surveys Branch, Balance of Payments Division, (202) 606-5318.
- *Mail:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230.
- *Hand Delivery/Courier:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, Shipping and Receiving, Section M100, 1441 L Street NW, Washington, DC 20005.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB), OIRA, Paperwork Reduction Project 0608-0062, Attention PRA Desk Officer for BEA, via e-mail at pbugg@omb.eop.gov, or by FAX at 202-395-7245.

Public Inspection: All comments received are a part of the public record and will generally

be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments (enter N/A in required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-9850.

SUPPLEMENTARY INFORMATION:

The BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, is a mandatory survey and is conducted once every five years by BEA under the authority provided by the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108 (the Act), and by Section 5408 of the Omnibus Trade and Competitiveness Act of 1988.

By rule issued in 2012 (77 FR 24373), BEA established guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. This proposed rule would amend the regulations to require a response from persons subject to the reporting requirements of the BE-180, whether or not they are contacted by BEA, to ensure complete coverage of financial services transactions between U.S. financial services providers and foreign persons.

The proposed BE-180 survey is intended to cover financial services transactions with foreign persons. In nonbenchmark years, the universe estimates covering these transactions are derived from the sample data reported on BEA's BE-185, Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons.

The data are used by BEA to estimate the financial services component of the U.S. International Transactions Accounts and other economic accounts compiled by BEA. The data are needed to monitor U.S. exports and imports of financial services; analyze their impact on the U.S. and foreign economies; support U.S. international trade policy on financial services; and assess and promote U.S. competitiveness in international trade in services. In addition, they will improve the ability of U.S. businesses to identify and evaluate market opportunities.

The services covered by the BE-180 would include the following transactions: (1) brokerage services related to equity transactions; (2) other brokerage services; (3) underwriting and private placement services; (4) financial management services; (5) credit-related services, except credit card services; (6) credit card services; (7) financial advisory and custody services; (8) securities lending services; (9) electronic funds transfer services; and (10) other financial services.

This proposed rule would amend 15 CFR Part 801 by adding a new section 801.9 to set forth the reporting requirements for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. As part of its continuing effort to reduce paperwork and respondent burden, the Department of Commerce invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520 (PRA).

Description of Changes

The proposed changes would amend the regulations and the survey form for the BE-180

Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. These amendments include changes in the data items collected and questionnaire design.

If the proposed rule is made final, unlike most other BEA surveys conducted pursuant to the Act, persons subject to the reporting requirements of the BE-180 would be required to respond whether or not they are contacted by BEA.

BEA proposes to add one item to the benchmark survey form based upon information obtained from reporting companies that suggests this additional information is readily available in existing financial records. Specifically, questions would be added to collect equity- and debt-related underwriting transactions separately on the 2014 BE-180. A number of reporters include language in their financial statements that suggests equity- and debt-related underwriting transactions are readily obtainable from their accounting records.

In addition, BEA proposes to redesign the format and wording of the survey questionnaires. The new design would incorporate improvements made to other BEA surveys. Survey instructions and data item descriptions would be changed to improve clarity and to make the benchmark survey forms more consistent with those of other BEA surveys.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act

(PRA). The requirement will be submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608-0062.

Notwithstanding any other provisions of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

The BE-180 survey, as proposed, is expected to result in the filing of reports from approximately 8,750 respondents. Approximately 1,250 respondents would report mandatory or voluntary data on the survey and approximately 7,500 would file exemption claims. The respondent burden for this collection of information would vary from one respondent to another, but is estimated to average ten hours for the respondents that file mandatory or voluntary data—including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information— and two hours for other responses. Thus the total respondent burden for this survey is estimated at 27,500 hours, compared to 24,000 hours for the previous BE-180 benchmark survey in 2009. The increase in burden hours is due to an increase in the size of the respondent universe.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the burden estimate; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-

information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the ADDRESSES section above.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The changes proposed in this rule are discussed in the preamble and are not repeated here.

A BE-180 report would be required of any U.S. company that is a financial services provider or intermediary that had sales to, or purchases from, foreign persons. While the survey would not collect data on total sales or other measures of the overall size of the businesses that respond to the survey, historically the respondents to the existing quarterly survey of financial services transactions and to the previous benchmark surveys have been comprised mainly of major U.S. corporations. The proposed benchmark survey would be required from U.S. financial companies whose sales or purchases of the covered financial services with foreign persons exceeded \$3 million for fiscal year 2014. This exemption level would exclude most small businesses from mandatory coverage. Any small businesses that may be required to report would likely have engaged in only a few covered transactions, and is therefore expected to be below the expected average burden of 10 hours per response. Even if the responses for small businesses took the expected average burden of 10 hours per response, that would not constitute a significant impact on any small business or other entity. Because this rule would not have a significant impact on any small entities, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated January 21, 2015

Brian C. Moyer,

Director, Bureau of Economic Analysis

For reasons set forth in the preamble, BEA proposes to amend 15 CFR part 801 as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS AND SURVEYS OF DIRECT INVESTMENT

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp. p. 173); and E.O. 12518 (3 CFR, 1985 Comp. p. 348).

2. Revise § 801.3 to read as follows:

§ 801.3 Reporting requirements.

Except for surveys subject to rulemaking in §§ 801.7, 801.8 and 801.9, reporting requirements for all other surveys conducted by the Bureau of Economic Analysis shall be as follows:

(a) Notice of specific reporting requirements, including who is required to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be published by the Director of the Bureau of Economic Analysis in the FEDERAL REGISTER prior to the implementation of a survey;

(b) In accordance with section 3104(b)(2) of title 22 of the United States Code, persons notified of these surveys and subject to the jurisdiction of the United States shall furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act; and

(c) Persons not notified in writing of their filing obligation by the Bureau of Economic Analysis are not required to complete the survey.

3. Add § 801.9 to read as follows:

§801.9 Rules and regulations for the BE-180, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons - 2014.

A BE-180, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons will be conducted covering 2014. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-180 survey are given in paragraphs (a) through (e) of this section. More detailed instructions are given on the report forms and in instructions accompanying the report forms.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-180, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons - 2014, contained herein, whether or not they are contacted by BEA. Also, a person, or its agent, that is contacted by BEA about reporting in this survey, either by sending a report form or by written inquiry, must respond in writing pursuant this section. This may be accomplished by:

- (1) Completing and returning the BE-180 by the due date of the survey; or,
- (2) If exempt, by completing pages one through five of the BE-180 survey and returning them to BEA.

(b) *Who must report.* (1) A BE-180 report is required of each U.S. person that is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and that had transactions (either sales or purchases) directly with foreign persons in all financial services combined in excess of \$3,000,000 during its fiscal year covered by the survey on an accrual basis. The \$3,000,000 threshold should be applied to financial services transactions with foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the

\$3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters that file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated).

(2) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are \$3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed records search. Because the \$3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both.

(3) *Exemption claims.* Any U.S. person that receives the BE-180 survey form from BEA, but is not subject to the mandatory reporting requirements and chooses not to report voluntarily, must file an exemption claim by completing pages one through five of the BE-180 survey and returning it to BEA. This requirement is necessary to ensure

compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

- (c) *BE-180 definition of financial services provider.* The definition of financial services provider used for this survey is identical to the definition of the term as used in the North American Industry Classification System, United States, 2012, Sector 52-Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55-Management of Companies and Enterprises). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); non-depository credit intermediation (including credit card issuing, sales financing, and other non-depository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts and dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other

financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(d) *Covered types of services.* The BE-180 survey covers the following types of financial services transactions (sales or purchases) between U.S. financial companies and foreign persons: brokerage services related to equity transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services.

(e) *Due date.* A fully completed and certified BE-180 report, or qualifying exemption claim with pages one through five completed, is due to be filed with BEA not later than October 1, 2015.

BILLING CODE 3510-06-P

[FR Doc. 2015-01491 Filed 01/26/2015 at 8:45 am; Publication Date: 01/27/2015]